

State of California
BOARD OF EQUALIZATION

CIGARETTE AND TOBACCO PRODUCTS TAX REGULATIONS

Regulation 4506. EVIDENCE OF A NON-ARM'S LENGTH TRANSACTION.

Reference: Reference: Sections 22973.1, 22977.2, 22979, Business and Professions Code.

Evidence that a sale is a non-arm's length transaction, includes, but is not limited to, the following:

- (a)** Inadequate consideration was paid for the assets of the prior licensee (former owner).
- (b)** No bill of sale, sales contract or escrow account was prepared or executed for the sale of the business.
- (c)** The former owner holds an equity interest in the inventory of products for sale, fixtures or equipment.
- (d)** The purchaser was or is an employee, co-owner or independent contractor with the former owner.
- (e)** The ownership of the real property at which the business is located, or a master leasehold interest therein, remains with the former owner, with no lease, sublease or lease assignment having been executed with the purchaser providing for the payment of reasonable rentals, subrentals, or other consideration to the former owner.
- (f)** The business license for the business remains in the name of the former owner.
- (g)** The purchaser holds itself out as being the same business as that operated by the former owner or as being affiliated with the former owner in the business; and the former owner:
 - (1) Is present at the business on a regular basis;
 - (2) Continues to contract with suppliers to purchase products for use at the business;
 - (3) Assumes personal liability for services, supplies or inventory for the business;
 - (4) Continues to sign checks on one or more of the business's bank accounts; or
 - (5) Maintains the authority to hire and fire business employees.

History: Adopted December 12, 2006, effective April 21, 2007.